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| EXAMINER | |
|---|---|
| HARPER, TRAMAR YONG | |
| ART UNIT | PAPER NUMBER |
| 3717 | |

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| 11/10/2010 | ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/728,727 | HERRMANN ET AL. | |
| | Examiner | Art Unit | |
| | TRAMAR HARPER | 3717 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *03 November 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-43* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-43* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Response to Amendment*

Examiner acknowledges Request for Continued Examination filed 11/03/2010. Examiner acknowledges receipt of amendments/arguments filed 11/03/2010. The arguments set forth are addressed herein below. Claims 1-43 remain pending and Claims 1, 7-9, 11-12, 17-19, 24-25, 27-29, 35-39, & 41-43 have been currently amended.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 and 25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to **reasonably** convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. No where in the specification does it state that there is a plurality of players entered into one wagering game, wherein some players are entered via the primary entry method and others are entered via the free AMOE method in the same wagering game. There is no explicit teaching of a mixture of AMOE players and Primary entry players at the same time e.g. both types of players entered in the same wagering game. Applicant depends on figure 3 and the description thereof. The figure does show more than one player participating in one wagering game and the

description does provide support for a player having the option to play the gaming session either via pay to play or Amoe, but there is no explicit showing of a player playing a wagering game via pay to play and another player playing the **same** wagering game via Amoe. The drawing and description does not provide evidence of the actual occurrence and that is what the applicant is trying to claim. There is inefficient support of the actual scenario occurring. If applicant intended to claim such an invention than support would have been provided for such an occurrence or scenario similar to that of Paragraph 22, which clearly states a game session scenario, wherein only AMOE game players participate and not a mixture. Appropriate correction is required.

Claim 36 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. No where in the specification does it claim the "at least one player plays the wagering game remotely from at least one location that is separate from another location where the at least one player subscribed to the wagering game". Applicant points to ¶ 40, 70, 99, 107 for support. However paragraph 107 states that a player can access game results e.g. results of an already played game remotely from a interface different from which the game was **played or subscribed**. There is support for a player playing remotely, but not different from a location in which the same player subscribed for the game. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**Claims 1-2, 4-10, 12-14, 16, 18-20, 22-23, 25-31, 33-34, & 36-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisk (WO 00/69535 A1) in view of Koza (US 6,767,284).**

**Claims 1-2, 6, 9, 12-14, 16, 20, 25-26, 29, 31, 37, & 41:** Fisk discloses a bingo gaming system that comprises providing entry into at least one or more bingo game sessions. The system includes a variety of terminal, gaming computers including computer readable memory, etc. for implementing multiple bingo games. A player can purchase entry to a bingo game at various gaming terminals or retail locations. Fisk discloses that entry to a bingo game can be done in a variety of ways such as through the Internet, telephone, or ATM interfaces all linked within a bingo network. Also, preprinted cards can be received through the newspaper inserts, lottery instant tickets, etc. All entries are validated and associated with respective player accounts. Furthermore, players cannot participate in games that are currently active, but can pay for entry into games that are inactive (Pg. 25:20-Pg. 30:5). Fisk discloses that players can establish a prepaid account through a credit card or debit card for future charges or entries into bingo games (Primary methods of entry). The player or players can receive periodic bills for charges accrued during the previous period (Pg. 12:25-Pg. 13:5- e.g. implies subscription and automated renewal into bingo games). Fisk discloses that prepaid

bingo tickets can be repeatedly used for subsequent/consecutive bingo games, wherein players purchase a prepaid bingo card for use for a limited number of games before the prepaid amount is consumed. Once the prepaid amount is used anymore plays on the card must be purchased again e.g. the card must be renewed (Pg. 30:5-12). Fisk discloses that in the event that a player has a winning bingo card the pattern cell content of the card is compared to the drawn winning cell content/numbers stored in memory and if there is a match the player is awarded a payout. Payouts vary from jackpot awards to "leaster" awards, therefore based on the type of win the gaming system determines the appropriate payout. The numbers are randomly drawn from a game computer and compared via matching computers (Pg. 27:16-24, Pg. 32:17-Pg. 33:33, Pg. 36:1-5, Pg. 3:3-24). Fisk discloses that some of the rules for the game may comprise achieving different combinations of winning patterns on a bingo card (Pg. 37:16-25). Fisk discloses an alternative method of entry **(AMOE)** into a bingo game that comprises the use of preprinted bingo cards in newspaper supplements or on the reverse side of instant game tickets. These preprinted bingo cards help enhance visibility of the game and promote sales of the game. Such methods may be readily used to advertise and encourage participation in the bingo games when it is initially introduced. The instant win tickets provide the holder a **free** entry into the bingo game using the bingo game card printed on the reverse side of the instant win ticket (Page 11:10-15, Page. 13, lines 30-Page. 14, lines 1-12). The above clearly discloses at least as much that one player may purchase entry into a bingo session and another may use

**an alternative method for a free entry into the bingo game session e.g. does not require a wager**.

Fisk lacks explicitly suggesting the act of providing the AMOE method of entry for free. However, Applicant fails to disclose that having the act of providing the alternative method of entry for free solves any stated problem, provides an advantage, or is for any particular purpose. Moreover, it appears that the AMOE of Fisk, or applicant's invention, would perform the same function of providing a free entry into a bingo game regardless of how the free entry is obtained. Therefore, it would have been prima facie obvious to modify Fisk to obtain the invention as specified in claims 1, 12, & 25 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Fisk.

In addition to the above, Fisk is clearly drawn to giving a player a free entry into the bingo game session (see ID). Fisk attempts to promote and advertise the bingo game by providing a bingo game card insert in newspapers or on the reverse side of instant win tickets. Fisk does not explicitly disclose whether a player purchases the newspaper circular or purchases the instant win ticket. However, it is clear that Fisk at least attempts to promote the game by providing a free entry into at least one bingo game. In an analogous art, Koza teaches that it is known in the art to provide free entry into various games of chance, such as bingo, through newspaper inserts, or by free entry forms sent through the mail, or by internet sites that require no purchase to play e.g. Koza teaches that it is known to provide a free entry into a game of chance, wherein the act of providing the method is free (Col. 1:20-28, Col. 2:30-45). Such

attempts are giving for providing free game play in jurisdictions that do not possess the attribute of consideration (e.g. jurisdictions that allow games of chances to be played as long as entry is free) (see ID). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made would have motivated to modify Fisk with act of providing for free a method of free entry into a lottery type game, as taught by Koza, to promote game play and furthermore extend game play to jurisdictions that restrict certain lottery-type games such as bingo. Such a modification, promotes the game to a wider audience, while retaining bingo devotees and furthermore increasing player participation and revenue.

In regards to the newly added limitations, Fisk discloses that the Amoe includes newspaper inserts or free entries on the reverse side of instant game tickets, wherein a player can use the identifier of the Amoe to be immediately entered into the **desired bingo game** to that bingo card. Under such approach bingo cards can be used multiple times (pg. 13:29-pg. 14:12). The combination of Fisk in view of Koza at least teaches that a player under Amoe can choose the game that the desires to play or be entered in. Fisk in view of Koza lacks explicitly suggesting the act of providing an entry specifying a date and time of the wagering game. However, Applicant fails to disclose that having the act of providing an entry specifying a date and time of the wagering game to be entered solves any stated problem, provides an advantage, or is for any particular purpose. Moreover, it appears that the AMOE of Fisk in view of Koza, or applicant's invention, would perform the same function of providing a free entry into a desired bingo game determined at the player's discretion. Therefore, it would have been prima facie

obvious to modify Fisk in view of Koza to obtain the invention as specified in claims 1, 12, & 25 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Fisk in view of Koza.

**Claims 4, 10, 22, 30, & 33:** Fisk discloses a special jackpot award wherein a player that must achieve a row of hits in five called numbers on a card (Pg. 39:17-23). This is clearly interpreted as determining a payout based on fixed odds of winning, considering the likely hood or probability of achieving the outcome is significantly high.

**Claims 5, 23, & 34:** Fisk discloses that various combination of winning pattern can achieve a "bingo" within the game and that achieving bingo can either end the game or modify the game (Pg. 37:10-34). This includes any bingo, which is well known in the art, and basically consists of achieving bingo in any known fashion until a winning bingo is achieved e.g. a bingo game wherein the odds of winning aren't fixed.

**Claims 7, 18-19, & 27:** Fisk discloses the being system controlled by a game computer and/or operator. As such the computer/operator would have control of entering the at least one player by processing the AMOE of the one player (page 35:25-30). The system is capable of processing next game session via AMOE for the respective players.

**Claims 8 & 28:** It is inherent that there would be an indication to the player of the gaming session to be entered via AMOE e.g. the instant win ticket would have to designate entry into the bingo session (see above).

**Claim 36:** Fisk in view of Koza teaches reviewing past games results via multiple interfaces such as the internet, atm, etc. which implies that reviewing is not confined to the same interface in which they played the game or subscribed to the game (Fisk pg. 16:1-13, pg. 34:1-17, pg. 38:29-33).

**Claim 38:** Fisk in view of Koza discloses the above, but fails to disclose determining the at least one player has not exceeded a maximum number of alternative method of entries. However, applicant discloses that it is known in the art for sweepstakes to limit the number of times a player can enter a sweepstakes via AMOE and that numerous methods may be used for AMOE. Applicant also discloses that the number of sessions and given periods may be any number (¶ 73-74), which is an indication of mere preference or design. Furthermore, applicant fails to disclose that determining the at least one player has not exceeded a maximum number of alternative method of entries solves any stated problem, provides an advantage, or is for any particular purpose. Moreover, it appears that the AMOE means of Fisk in view of Koza, or applicant's invention, would perform the same function of providing a free means of entry into a bingo game session for promotional purposes or increasing players interest. Therefore, it would have been prima facie obvious to modify Fisk in view of Koza to obtain the invention as specified in claim 38 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Fisk in view of Koza.

**Claims 39 & 42-43:** Fisk in view of Koza discloses tracking an entry of a player into a gaming machine, receiving contact information, and associating at least one entry with a

respective bingo card. For example, Fisk discloses establishing an identifier for the a bingo card, wherein the identifier is associated with an account of the player and at least a receipt identifier (Pg. 19:line 24-Pg. 20: line2). Fisk furthermore disclosing tracking the entry of the player e.g. it maintains a real-time status of the player respective of the game card. The system maintains the matches on a bingo card, an identifier of the game session played, and contact information regarding the player such as the name of the player and location of the player (Pg. 21:line 11-Pg. 22:line 26). Fisk also discloses that communication with bingo system and the player can be established through the internet as well (Pg. 9: lines 31-33). It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the tracking/account/identifying means of Fisk to the alternative free method of entry means of Koza to provide a means of awarding a wide range of players. Such a modification provides a more efficient means of prize redemption regardless if a player is a paid patron or a player playing for free to guarantee that the appropriate players receive their due prizes.

**Claim 40:** Fisk in view of Koza at least discloses accepting contact information, but fails to disclose contact information submitted through mail. However, applicant fails to disclose that having contact information submitted through mail solves any stated problem, provides an advantage, or is for any particular purpose. Moreover, it appears that the contact information means of Fisk in view of Koza, or applicant's invention, would perform the same function of providing contact information for prize redemption purposes or winning announcement purposes. Therefore, it would have been prima facie obvious to modify Fisk in view of Koza to obtain the invention as specified in claim

40 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Fisk in view of Koza.

**Claims 3, 15, 21, & 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisk (WO 00/69535 A1) in view of Koza (US 6,767,284).**

**Claims 3, 21, & 32:** Fisk in view of Koza discloses the above, but excludes the wagering game as a game of skill. However, applicant fails to disclose that the wagering game being a game of skill solves any stated problem, provides an advantage, or is for any particular purpose. Moreover, it appears that the gaming system of Fisk in view of Koza, or applicant's invention, would perform the same function of providing a Bingo gaming system with a primary entries means as well as alternative entry means regardless of the type of game played. Therefore, it would have been prima facie obvious to modify Fisk in view of Koza to obtain the invention as specified in claims 3, 21, & 32 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Fisk in view of Koza.

**Claim 15:** Fisk in view of Koza discloses the above, but excludes the AMOE including a mail entry or internet entry. However, applicant fails to disclose that the AMOE including a mail entry or internet entry solves any stated problem, provides an advantage, or is for any particular purpose. Moreover, it appears that the gaming system of Fisk in view of Koza, or applicant's invention, would perform the same function of providing a Bingo gaming system with a primary entries means as well as

alternative entry means regardless of the many possible alternative entry methods. Therefore, it would have been prima facie obvious to modify Fisk in view of Koza to obtain the invention as specified in claims 15-16 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Fisk in view of Koza.

**Claims 11, 17, 24, & 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisk (WO 00/69535 A1) in view of Koza (US 6,767,284), and in further view of Scott (US 6,102,400).**

**Claims 11, 17, 24, & 35:** Fisk in view of Koza discloses the above with respect to the independent claims, but excludes the AMOE providing an entry of the at least one player in at least two game sessions and a game session associated with the wagering game providing entry by AMOE. Fisk discloses that a computer/operator controls the functionality of the game system including processing game entries. Scott teaches a gaming system comprising a “bad beat” feature that rewards players for receiving somewhat losing outcomes. For example, in a "coverall" bingo game the player with the least amount of selections covered is award an entry to three free games (Col. 9:52-Col. 10:10). Considering that Fisk discloses providing “leaster" awards or prizes it would have been obvious to have modified the gaming system of Fisk in view of Koza to include the AMOE feature (entry for a series of games), as taught by Scott to provide a “leaster” or “bad beat” alternative to the player. Such a modification, add excitement and further potential award opportunities to the player (Scott Col. 2:49-56). Thus a

player is more inclined to play if losing outcomes provides potential gains as well as winning outcomes.

### *Response to Arguments*

Applicant's arguments with respect to claims 1-43 have been considered but are moot in view of the new ground(s) of rejection. In regards to the 112 rejection please see above for clarification. Applicant states that an advantage of affecting dates and times includes affecting entries only on dates and times when the gaming system is underutilized by paying players, but there is no such support for such findings in the disclosure. Furthermore the disclosure at least implies that the dates and times is intended such that a player can choose a desired game to be entered in via AMOE e.g. a means for a player to pick what game they want to play. Fisk in view Koza at least addresses such a desire for a player to pick the game in which the choose to be entered in (see above).

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRAMAR HARPER whose telephone number is (571)272-6177. The examiner can normally be reached on 7:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Melba Bumgarner can be reached on (571) 272-4709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Melba Bumgarner/
Supervisory Patent Examiner, Art Unit 3717

TH 11/06/10